

AMENDED IN SENATE JUNE 29, 2004

AMENDED IN SENATE JUNE 16, 2004

AMENDED IN ASSEMBLY APRIL 28, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1933

Introduced by Assembly Member Pacheco

February 10, 2004

An act to amend Sections 6252 and 6254 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1933, as amended, Pacheco. Public records.

Under the California Public Records Act, except for exempt records, every state or local agency, upon request, is required to make records available to any person upon payment of fees to cover costs.

Under the act, records that are exempt from disclosure include law enforcement investigatory records, although address information of a crime victim and of an individual arrested for a crime may be disclosed to a licensed private investigator or to a requester declaring under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, subject to specified restrictions, including that the address information obtained under these provisions remain confidential and not be used directly or indirectly to sell a product or service.

This bill would provide that this address information may not be used directly or indirectly, or furnished to another, to sell a product or service; ~~other than a journalistic product or service. It would provide that~~

nothing in these provisions shall be construed to prohibit or limit a scholarly, journalistic, political, or governmental use of this address information.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6252 of the Government Code is
2 amended to read:
3 6252. As used in this chapter:
4 (a) "Local agency" includes a county; city, whether general
5 law or chartered; city and county; school district; municipal
6 corporation; district; political subdivision; or any board,
7 commission or agency thereof; other local public agency; or
8 entities that are legislative bodies of a local agency pursuant to
9 subdivisions (c) and (d) of Section 54952.
10 (b) "Member of the public" means any person, except a
11 member, agent, officer, or employee of a federal, state, or local
12 agency acting within the scope of his or her membership, agency,
13 office, or employment.
14 (c) "Person" includes any natural person, corporation,
15 partnership, limited liability company, firm, or association.
16 (d) "Public agency" means any state or local agency.
17 (e) "Public records" includes any writing containing
18 information relating to the conduct of the public's business
19 prepared, owned, used, or retained by any state or local agency
20 regardless of physical form or characteristics. "Public records" in
21 the custody of, or maintained by, the Governor's office means any
22 writing prepared on or after January 6, 1975.
23 (f) "State agency" means every state office, officer,
24 department, division, bureau, board, and commission or other
25 state body or agency, except those agencies provided for in Article
26 IV (except Section 20 thereof) or Article VI of the California
27 Constitution.
28 (g) "Writing" means any handwriting, typewriting, printing,
29 photostating, photographing, photocopying, transmitting by
30 electronic mail or facsimile, and every other means of recording
31 upon any tangible thing any form of communication or
32 representation, including letters, words, pictures, sounds, or



1 symbols, or combinations thereof, and any record thereby created,
2 regardless of the manner in which the record has been stored.

3 SEC. 2. Section 6254 of the Government Code is amended to
4 read:

5 6254. Except as provided in Sections 6254.7 and 6254.13,
6 nothing in this chapter shall be construed to require disclosure of
7 records that are any of the following:

8 (a) Preliminary drafts, notes, or interagency or intra-agency
9 memoranda that are not retained by the public agency in the
10 ordinary course of business, provided that the public interest in
11 withholding those records clearly outweighs the public interest in
12 disclosure.

13 (b) Records pertaining to pending litigation to which the public
14 agency is a party, or to claims made pursuant to Division 3.6
15 (commencing with Section 810), until the pending litigation or
16 claim has been finally adjudicated or otherwise settled.

17 (c) Personnel, medical, or similar files, the disclosure of which
18 would constitute an unwarranted invasion of personal privacy.

19 (d) Contained in or related to any of the following:

20 (1) Applications filed with any state agency responsible for the
21 regulation or supervision of the issuance of securities or of
22 financial institutions, including, but not limited to, banks, savings
23 and loan associations, industrial loan companies, credit unions,
24 and insurance companies.

25 (2) Examination, operating, or condition reports prepared by,
26 on behalf of, or for the use of, any state agency referred to in
27 paragraph (1).

28 (3) Preliminary drafts, notes, or interagency or intra-agency
29 communications prepared by, on behalf of, or for the use of, any
30 state agency referred to in paragraph (1).

31 (4) Information received in confidence by any state agency
32 referred to in paragraph (1).

33 (e) Geological and geophysical data, plant production data, and
34 similar information relating to utility systems development, or
35 market or crop reports, that are obtained in confidence from any
36 person.

37 (f) Records of complaints to, or investigations conducted by, or
38 records of intelligence information or security procedures of, the
39 office of the Attorney General and the Department of Justice, and
40 any state or local police agency, or any investigatory or security

1 files compiled by any other state or local police agency, or any
2 investigatory or security files compiled by any other state or local
3 agency for correctional, law enforcement, or licensing purposes,
4 except that state and local law enforcement agencies shall disclose
5 the names and addresses of persons involved in, or witnesses other
6 than confidential informants to, the incident, the description of any
7 property involved, the date, time, and location of the incident, all
8 diagrams, statements of the parties involved in the incident, the
9 statements of all witnesses, other than confidential informants, to
10 the victims of an incident, or an authorized representative thereof,
11 an insurance carrier against which a claim has been or might be
12 made, and any person suffering bodily injury or property damage
13 or loss, as the result of the incident caused by arson, burglary, fire,
14 explosion, larceny, robbery, carjacking, vandalism, vehicle theft,
15 or a crime as defined by subdivision (b) of Section 13951, unless
16 the disclosure would endanger the safety of a witness or other
17 person involved in the investigation, or unless disclosure would
18 endanger the successful completion of the investigation or a
19 related investigation. However, nothing in this division shall
20 require the disclosure of that portion of those investigative files
21 that reflect the analysis or conclusions of the investigating officer.

22 Customer lists provided to a state or local police agency by an
23 alarm or security company at the request of the agency shall be
24 construed to be records subject to this subdivision.

25 Notwithstanding any other provision of this subdivision, state
26 and local law enforcement agencies shall make public the
27 following information, except to the extent that disclosure of a
28 particular item of information would endanger the safety of a
29 person involved in an investigation or would endanger the
30 successful completion of the investigation or a related
31 investigation:

32 (1) The full name and occupation of every individual arrested
33 by the agency, the individual's physical description including date
34 of birth, color of eyes and hair, sex, height and weight, the time and
35 date of arrest, the time and date of booking, the location of the
36 arrest, the factual circumstances surrounding the arrest, the
37 amount of bail set, the time and manner of release or the location
38 where the individual is currently being held, and all charges the
39 individual is being held upon, including any outstanding warrants
40 from other jurisdictions and parole or probation holds.



(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service, ~~other than a journalistic product or service,~~ service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. *Nothing in this paragraph shall be construed to prohibit or limit*

1 *a scholarly, journalistic, political, or governmental use of address*
2 *information obtained pursuant to this paragraph.*

3 (g) Test questions, scoring keys, and other examination data
4 used to administer a licensing examination, examination for
5 employment, or academic examination, except as provided for in
6 Chapter 3 (commencing with Section 99150) of Part 65 of the
7 Education Code.

8 (h) The contents of real estate appraisals or engineering or
9 feasibility estimates and evaluations made for or by the state or
10 local agency relative to the acquisition of property, or to
11 prospective public supply and construction contracts, until all of
12 the property has been acquired or all of the contract agreement
13 obtained. However, the law of eminent domain shall not be
14 affected by this provision.

15 (i) Information required from any taxpayer in connection with
16 the collection of local taxes that is received in confidence and the
17 disclosure of the information to other persons would result in
18 unfair competitive disadvantage to the person supplying the
19 information.

20 (j) Library circulation records kept for the purpose of
21 identifying the borrower of items available in libraries, and library
22 and museum materials made or acquired and presented solely for
23 reference or exhibition purposes. The exemption in this
24 subdivision shall not apply to records of fines imposed on the
25 borrowers.

26 (k) Records, the disclosure of which is exempted or prohibited
27 pursuant to federal or state law, including, but not limited to,
28 provisions of the Evidence Code relating to privilege.

29 (l) Correspondence of and to the Governor or employees of the
30 Governor's office or in the custody of or maintained by the
31 Governor's Legal Affairs Secretary, provided that public records
32 shall not be transferred to the custody of the Governor's Legal
33 Affairs Secretary to evade the disclosure provisions of this chapter.

34 (m) In the custody of or maintained by the Legislative Counsel,
35 except those records in the public database maintained by the
36 Legislative Counsel that are described in Section 10248.

37 (n) Statements of personal worth or personal financial data
38 required by a licensing agency and filed by an applicant with the
39 licensing agency to establish his or her personal qualification for
40 the license, certificate, or permit applied for.



(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is entered into prior to April 1, 1984, is

1 amended on or after April 1, 1984, the amendment, except for any
2 portion containing the rates of payment, shall be open to inspection
3 one year after it is fully executed. If the California Medical
4 Assistance Commission enters into contracts with health care
5 providers for other than inpatient hospital services, those contracts
6 shall be open to inspection one year after they are fully executed.

7 Three years after a contract or amendment is open to inspection
8 under this subdivision, the portion of the contract or amendment
9 containing the rates of payment shall be open to inspection.

10 Notwithstanding any other provision of law, the entire contract
11 or amendment shall be open to inspection by the Joint Legislative
12 Audit Committee. The committee shall maintain the
13 confidentiality of the contracts and amendments until the time a
14 contract or amendment is fully open to inspection by the public.

15 (r) Records of Native American graves, cemeteries, and sacred
16 places maintained by the Native American Heritage Commission.

17 (s) A final accreditation report of the Joint Commission on
18 Accreditation of Hospitals that has been transmitted to the State
19 Department of Health Services pursuant to subdivision (b) of
20 Section 1282 of the Health and Safety Code.

21 (t) Records of a local hospital district, formed pursuant to
22 Division 23 (commencing with Section 32000) of the Health and
23 Safety Code, or the records of a municipal hospital, formed
24 pursuant to Article 7 (commencing with Section 37600) or Article
25 8 (commencing with Section 37650) of Chapter 5 of Division 3 of
26 Title 4 of this code, that relate to any contract with an insurer or
27 nonprofit hospital service plan for inpatient or outpatient services
28 for alternative rates pursuant to Section 10133 or 11512 of the
29 Insurance Code. However, the record shall be open to inspection
30 within one year after the contract is fully executed.

31 (u) (1) Information contained in applications for licenses to
32 carry firearms issued pursuant to Section 12050 of the Penal Code
33 by the sheriff of a county or the chief or other head of a municipal
34 police department that indicates when or where the applicant is
35 vulnerable to attack or that concerns the applicant's medical or
36 psychological history or that of members of his or her family.

37 (2) The home address and telephone number of peace officers,
38 judges, court commissioners, and magistrates that are set forth in
39 applications for licenses to carry firearms issued pursuant to

1 Section 12050 of the Penal Code by the sheriff of a county or the
2 chief or other head of a municipal police department.

3 (3) The home address and telephone number of peace officers,
4 judges, court commissioners, and magistrates that are set forth in
5 licenses to carry firearms issued pursuant to Section 12050 of the
6 Penal Code by the sheriff of a county or the chief or other head of
7 a municipal police department.

8 (v) (1) Records of the Major Risk Medical Insurance Program
9 related to activities governed by Part 6.3 (commencing with
10 Section 12695) and Part 6.5 (commencing with Section 12700) of
11 Division 2 of the Insurance Code, and that reveal the deliberative
12 processes, discussions, communications, or any other portion of
13 the negotiations with health plans, or the impressions, opinions,
14 recommendations, meeting minutes, research, work product,
15 theories, or strategy of the board or its staff, or records that provide
16 instructions, advice, or training to employees.

17 (2) (A) Except for the portion of a contract that contains the
18 rates of payment, contracts for health coverage entered into
19 pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5
20 (commencing with Section 12700) of Division 2 of the Insurance
21 Code, on or after July 1, 1991, shall be open to inspection one year
22 after they have been fully executed.

23 (B) In the event that a contract for health coverage that is
24 entered into prior to July 1, 1991, is amended on or after July 1,
25 1991, the amendment, except for any portion containing the rates
26 of payment, shall be open to inspection one year after the
27 amendment has been fully executed.

28 (3) Three years after a contract or amendment is open to
29 inspection pursuant to this subdivision, the portion of the contract
30 or amendment containing the rates of payment shall be open to
31 inspection.

32 (4) Notwithstanding any other provision of law, the entire
33 contract or amendments to a contract shall be open to inspection
34 by the Joint Legislative Audit Committee. The committee shall
35 maintain the confidentiality of the contracts and amendments
36 thereto, until the contract or amendments to a contract is open to
37 inspection pursuant to paragraph (3).

38 (w) (1) Records of the Major Risk Medical Insurance Program
39 related to activities governed by Chapter 14 (commencing with
40 Section 10700) of Part 2 of Division 2 of the Insurance Code, and

1 that reveal the deliberative processes, discussions,
2 communications, or any other portion of the negotiations with
3 health plans, or the impressions, opinions, recommendations,
4 meeting minutes, research, work product, theories, or strategy of
5 the board or its staff, or records that provide instructions, advice,
6 or training to employees.

7 (2) Except for the portion of a contract that contains the rates
8 of payment, contracts for health coverage entered into pursuant to
9 Chapter 14 (commencing with Section 10700) of Part 2 of
10 Division 2 of the Insurance Code, on or after January 1, 1993, shall
11 be open to inspection one year after they have been fully executed.

12 (3) Notwithstanding any other provision of law, the entire
13 contract or amendments to a contract shall be open to inspection
14 by the Joint Legislative Audit Committee. The committee shall
15 maintain the confidentiality of the contracts and amendments
16 thereto, until the contract or amendments to a contract is open to
17 inspection pursuant to paragraph (2).

18 (x) Financial data contained in applications for registration, or
19 registration renewal, as a service contractor filed with the Director
20 of the Department of Consumer Affairs pursuant to Chapter 20
21 (commencing with Section 9800) of Division 3 of the Business and
22 Professions Code, for the purpose of establishing the service
23 contractor's net worth, or financial data regarding the funded
24 accounts held in escrow for service contracts held in force in this
25 state by a service contractor.

26 (y) (1) Records of the Managed Risk Medical Insurance Board
27 related to activities governed by Part 6.2 (commencing with
28 Section 12693) or Part 6.4 (commencing with Section 12699.50)
29 of Division 2 of the Insurance Code, and that reveal the
30 deliberative processes, discussions, communications, or any other
31 portion of the negotiations with health plans, or the impressions,
32 opinions, recommendations, meeting minutes, research, work
33 product, theories, or strategy of the board or its staff, or records
34 that provide instructions, advice, or training to employees.

35 (2) (A) Except for the portion of a contract that contains the
36 rates of payment, contracts entered into pursuant to Part 6.2
37 (commencing with Section 12693) or Part 6.4 (commencing with
38 Section 12699.50) of Division 2 of the Insurance Code, on or after
39 January 1, 1998, shall be open to inspection one year after they
40 have been fully executed.



1 (B) In the event that a contract entered into pursuant to Part 6.2
2 (commencing with Section 12693) or Part 6.4 (commencing with
3 Section 12699.50) of Division 2 of the Insurance Code is amended,
4 the amendment shall be open to inspection one year after the
5 amendment has been fully executed.

6 (3) Three years after a contract or amendment is open to
7 inspection pursuant to this subdivision, the portion of the contract
8 or amendment containing the rates of payment shall be open to
9 inspection.

10 (4) Notwithstanding any other provision of law, the entire
11 contract or amendments to a contract shall be open to inspection
12 by the Joint Legislative Audit Committee. The committee shall
13 maintain the confidentiality of the contracts and amendments
14 thereto until the contract or amendments to a contract are open to
15 inspection pursuant to paragraph (2) or (3).

16 (5) The exemption from disclosure provided pursuant to this
17 subdivision for the contracts, deliberative processes, discussions,
18 communications, negotiations with health plans, impressions,
19 opinions, recommendations, meeting minutes, research, work
20 product, theories, or strategy of the board or its staff shall also
21 apply to the contracts, deliberative processes, discussions,
22 communications, negotiations with health plans, impressions,
23 opinions, recommendations, meeting minutes, research, work
24 product, theories, or strategy of applicants pursuant to Part 6.4
25 (commencing with Section 12699.50) of Division 2 of the
26 Insurance Code.

27 (z) Records obtained pursuant to paragraph (2) of subdivision
28 (c) of Section 2891.1 of the Public Utilities Code.

29 (aa) A document prepared by or for a state or local agency that
30 assesses its vulnerability to terrorist attack or other criminal acts
31 intended to disrupt the public agency's operations and that is for
32 distribution or consideration in a closed session.

33 (bb) (1) Records of the Managed Risk Medical Insurance
34 Board related to activities governed by Part 8.7 (commencing with
35 Section 2120) of Division 2 of the Labor Code, and that reveal the
36 deliberative processes, discussions, communications, or any other
37 portion of the negotiations with entities contracting or seeking to
38 contract with the board, or the impressions, opinions,
39 recommendations, meeting minutes, research, work product,

1 theories, or strategy of the board or its staff, or records that provide
2 instructions, advice, or training to employees.

3 (2) (A) Except for the portion of a contract that contains the
4 rates of payment, contracts entered into pursuant to Part 8.7
5 (commencing with Section 2120) of Division 2 of the Labor Code
6 on or after January 1, 2004, shall be open to inspection one year
7 after they have been fully executed.

8 (B) In the event that a contract entered into pursuant to Part 8.7
9 (commencing with Section 2120) of Division 2 of the Labor Code
10 is amended, the amendment shall be open to inspection one year
11 after the amendment has been fully executed.

12 (3) Three years after a contract or amendment is open to
13 inspection pursuant to this subdivision, the portion of the contract
14 or amendment containing the rates of payment shall be open to
15 inspection.

16 (4) Notwithstanding any other provision of law, the entire
17 contract or amendments to a contract shall be open to inspection
18 by the Joint Legislative Audit Committee. The committee shall
19 maintain the confidentiality of the contracts and amendments
20 thereto until the contract or amendments to a contract are open to
21 inspection pursuant to paragraph (2) or (3).

22 Nothing in this section prevents any agency from opening its
23 records concerning the administration of the agency to public
24 inspection, unless disclosure is otherwise prohibited by law.

25 Nothing in this section prevents any health facility from
26 disclosing to a certified bargaining agent relevant financing
27 information pursuant to Section 8 of the National Labor Relations
28 Act.

